IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8152 of 1999
With
SPECIAL CIVIL APPLICATION No. 8153 of 1999
With
SPECIAL CIVIL APPLICATION No. 8155 of 1999
With
SPECIAL CIVIL APPLICATION No. 8156 of 1999
With
SPECIAL CIVIL APPLICATION No. 8158 of 1999
With
SPECIAL CIVIL APPLICATION No. 8160 of 1999
With
SPECIAL CIVIL APPLICATION No. 8163 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Petitioner(s)

Versus

KHODA BHIKHA C/O HK THAKOR - Respondent(s)

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Appearance :
MR KL PANDYA AGP for Petitioner No(s).: 1,2.

MR KETAN A DAVE for Respondent No(s).: 1.
MR PM LAKHANI for Respondent No(s).: 1.
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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 18/07/2005

ORAL JUDGMENT

1.0 The petitioner State has challenged the common judgment and award dated 13.01.1999 passed by the Labour Court, Jamnagar, in Recovery Applications No.922/1990 to 928/1990, whereby the said applications were allowed.

2.0 The briefs facts of the case are that the respondents herein were engaged as daily wagers by the petitioner authorities. It is the case of the petitioners that the respondents were not regularly appointed employees and that they were daily rate wagers who were given work as and when required by the petitioner depending upon the availability of grant.

2.1 The respondents herein preferred Recovery Applications before the Labour Court demanding the difference of wages. The Labour Court, Jamnagar, by impugned order dated 13.01.1999, allowed the said Recovery Applications. Hence, these petitions.

3.0 Mr. KL Pandya learned AGP has contended that while deciding the Recovery Applications under Section 33(C)(2) of the Industrial Disputes Act, 1947, the Labour Court

has committed an error in granting benefits under the Government Notification, without their being any adjudication between the parties. He has submitted that no such benefits can be granted to the respondents as contemplated under Section 33(C)(2) of the Industrial Disputes Act, 1947.

3.1 Mr. Pandya learned AGP has further contended that in view of the Full Bench decision of this Court in the case of Gujarat Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat reported in 2004 (2) G.L.R. pg.1488, the Forest Department of the petitioner cannot be termed to be an “Industry” under the Industrial Disputes Act, 1947.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. It is not in dispute that there is no award or judgment in favour of the respondents that they are entitled for the benefits under the Government Notification. The Labour Court, in the present case, has granted the benefits under the Government Notification, without their being any award or judgment between the parties. The Labour Court could have passed the impugned award only if their existed an award

or judgment under the relevant provisions of the Act between the parties. In my opinion, the Labour Court has committed serious error by entertaining the applications preferred by the respondents.

4.1 Moreover, in view of the recent Full Bench decision of this Court in the case of Gujarat Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat reported in 2004 (2) G.L.R. pg.1488, the Forest Department of the petitioner cannot be termed to be an “Industry” under the Industrial Disputes Act, 1947. Hence, the impugned order of the Labour Court is illegal and perverse and deserves to be quashed and set aside.

5.0 For the foregoing reasons, these petitions are allowed. The impugned order dated 13.01.1999 passed by the Labour Court, Jamnagar, in Recovery Applications No.922/1990 to 928/1990 is quashed and set aside. The amounts deposited by the petitioner State with the Registry of this Court, pursuant to the order dated 12.01.2000, are directed to be paid to the petitioner State. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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